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INQUIRE=DOC15D
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ENVELOPE

CDSN = LGX903 MCN = 91214/18865 TOR = 912141212
RTTCZYUW RUEKJCS1398 2141212-CCCC--RUEALGX.
ZNY CCCCC

HEADER

R 021212Z AUG 91
FM JOINT STAFF WASHINGTON DC
INFO RUEADWD/OCSA WASHINGTON DC
RUENAAA/CNO WASHINGTON DC
RUEAHQA/CSAF WASHINGTON DC
RUEADWD/PTC WASH DC
RUSNNOA/USCINCEUR VAIHINGEN GE
RUFGAID/USEUCOM AIDES VAIHINGEN GE
RUEOFAA/COMJSOC FT BRAGG NC//J2//
RUCQVAB/USCINCSOC INTEL OPS CEN MACDILL AFB FL
RUCJACC/USCINCCENT MACDILL AFB FL//CARA//
RUWSMXI/MAC INTEL CEN SCOTT AFB IL//IN//
RUEOACC/CDRPSYOP GP FT BRAGG NC//ASOF-POG-SB//
RHCGSRB/COMUSARCENT FT MCPHERSON GA//AFRD-DSO//
RUEALGX/SAFE

R 020936Z AUG 91
FM AMEMBASSY LUXEMBOURG
TO RUEHC/SECSTATE WASHDC 1411
INFO RUEHSS/OECD COLLECTIVE
RUFHAD/AMEMBASSY ABU DHABI 0111
RUEHHK/AMCONSUL HONG KONG 0037
RUEHIL/AMEMBASSY ISLAMABAD 0100
RUFHMS/AMEMBASSY MUSCAT 0072
RUEHRH/AMEMBASSY RIYADH 0300
RUFHSN/AMEMBASSY SANAA 0059

BT

CONTROLS

C O N F I D E N T I A L SECTION 01 OF 03 LUXEMBOURG 01398

DEPT FOR L - OSBORN, NEA, EB/IFD/OMA AND EUR/NE

E.O. 12356: N/A

/***** THIS IS A COMBINED MESSAGE *****/

BODY

TAGS: EFIN, EINV, LU

SUBJECT: THE LUXEMBOURG AUTHORITIES' HISTORY OF
BCCI: MORE THAN YOU EVER WANTED TO KNOW

SUMMARY

1. (C) LUXEMBOURG BANK REGULATORY OFFICIALS
RECENTLY RECITED TO US THE HISTORY OF BCCI IN

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DEPARTMENT OF STATE

☒ RELEASE ☒ DECLASSIFY
☐ EXCISE ☐ DECLASSIFY
☐ DENY IN PART
☐ DELETE Non-Responsive Info
FOIA Exemptions
PA Exemptions

IS/FPC/CDR

MR Cases Only:
EO Citations

TS authority
() CLASSIFY as () S or () C OAD
() DOWNGRADE TS to () S or () C OAD

Date. 9/8/94

LUXEMBOURG AND SAID THAT:

- BCCI WAS UNIQUE (NO OTHER STRUCTURE LIKE IT IN LUXEMBOURG);
- LAWS/RULES IMPLEMENTED SINCE BCCI ARRIVED MAKE A REPETITION MOST UNLIKELY.

THE LUXEMBOURGERS BELIEVE THE 1983 BASEL CONCORDAT PROVIDES AN ADEQUATE BASIS FOR SUPERVISING BANKS, BUT NOT FOR OVERSEEING BANK HOLDING COMPANIES. THEY BELIEVE THAT SOME SET OF RULES TO COVER HOLDING COMPANIES WILL BE ESTABLISHED EITHER IN THE CONTEXT OF THE BASEL CONCORDAT OR THE EC. THEY ARE SKEPTICAL, HOWEVER, ABOUT THE MECHANICS OF IMPLEMENTING ANY SUCH SET OF RULES. END SUMMARY.

BCCI STARTED IN LUXEMBOURG WITHOUT ANY NATIONALITY

2. (U) BCCI WAS INCORPORATED IN LUXEMBOURG IN 1972 AS A HOLDING COMPANY. THE HOLDING COMPANY IMMEDIATELY ESTABLISHED TWO BANKS, ONE IN LUXEMBOURG AND ONE IN THE CAYMAN ISLANDS. INVESTORS IN THE ENTERPRISE INCLUDED REPUTABLE, WELL-KNOWN ARABS AND AMERICANS:

- 10 PERCENT: ABU DHABI RULER, SHEIK ZAYED AL-NAHYAN;
- 33 PERCENT: ICIC TRUST; AND
- 25 PERCENT: BANK OF AMERICA (BA DIVESTED ITSELF OF ITS SHARES IN THREE YEARLY STAGES BEGINNING IN 1978).

3. (LOU) THERE WERE THUS NO MAJORITY SHAREHOLDERS, AND BCCI HAD NO IDENTIFIABLE POLITICAL HOME (MAJOR SHAREHOLDER'S COUNTRY OF RESIDENCE). AT THE TIME (EARLY 1970'S), MARRYING ARAB MONEY WITH AMERICAN AND EUROPEAN BANKING EXPERTISE SEEMED LIKE A WINNING IDEA.

RAPID BCCI EXPANSION OUTSIDE OF LUXEMBOURG ESCAPED SUPERVISION

4. (U) SOON AFTER ESTABLISHING IN LUXEMBOURG, THE BCCI BANK OPENED A BRANCH IN THE U.K. AND QUICKLY EXPANDED TO MORE THAN 40 BRANCH OFFICES, EMPLOYING SEVERAL THOUSAND PEOPLE. ONLY 80 OF BCCI'S TOTAL OF

15,000 EMPLOYEES WORLDWIDE WERE IN LUXEMBOURG. ALTHOUGH BCCI'S LICENSE WAS IN LUXEMBOURG, BY THE MID-1970'S THE BULK OF ITS OPERATIONS WERE IN THE U.K. AND ELSEWHERE.

5. (LOU) NONETHELESS, LUXEMBOURG BANK REGULATORY OFFICIALS (LUXEMBOURG MONETARY INSTITUTE -- LMI) ALLOWED BCCI TO CONTINUE USING LUXEMBOURG AS ITS HEADQUARTERS BECAUSE THE BANK STILL MADE THE CASE THAT IT HAD NO POLITICAL HOME.

6. (C) IN ADDITION, ALMOST FROM THE BEGINNING OF ITS ESTABLISHMENT IN LUXEMBOURG, BCCI PURSUED AN AGGRESSIVE STRATEGY THAT MADE REGULATORS IN OTHER COUNTRIES (PARTICULARLY THE BANK OF ENGLAND) WARY OF FORMALLY ASSUMING ANY SUPERVISORY RESPONSIBILITIES. FOR EXAMPLE, BCCI:

-- KEPT ITS LONDON BRANCHES OPEN SATURDAY AND SUNDAY;

/***** BEGINNING OF SECTION 002 *****/

-- DEVIATED FROM ORTHODOX METHODS OF DETERMINING INTEREST RATES; AND

-- PROVIDED SERVICES THAT OTHER BANKS WOULD NOT.

7. (C) REALIZING IN THE LATE 1970'S AND EARLY 1980'S THAT IT COULD NOT ADEQUATELY SUPERVISE A BANK WITH BCCI'S STRUCTURE, THE LMI SOUGHT TO REINFORCE THE 1983 BASEL CONCORDAT MECHANISMS BY OBLIGING BCCI TO INCORPORATE AND OPERATE UNDER FULL LOCAL SUPERVISION IN ALL PLACES WHERE IT OPERATED. REGULATORY AUTHORITIES IN MANY COUNTRIES WERE UNWILLING TO GO THIS ROUTE, HOWEVER. A LMI OFFICIAL DESCRIBES THE SUPERVISORS AS "COLLECTIVE PRISONERS" OF BCCI. (THE 1983 CONCORDAT WAS AN AGREEMENT AMONG THE CENTRAL BANK GOVERNORS OF INDUSTRIALIZED COUNTRIES ON THE DIVISION OF REGULATORY RESPONSIBILITIES).

8. (LOU) AT THE INITIATIVE OF THE LMI, A COLLEGE OF SIX OR SO REGULATORS WAS ESTABLISHED IN 1988 TO ATTEMPT TO SUPERVISE BCCI MORE CLOSELY. THE 1989 FLORIDA DRUG MONEY LAUNDERING CASE, HOWEVER, MADE CLEAR THAT THE COLLEGE WAS NOT WORKING EITHER. NO ONE WAS ASKING QUESTIONS ABOUT BCCI'S CUSTOMERS.

1989 -- LUXEMBOURG TRIES TO EVICT BCCI

9. (LOU) THE FLORIDA CASE TRIGGERED A SERIES OF

WITHDRAWALS THAT COLLAPSED BCCI'S PONZI-STYLE OPERATIONS. BCCI BEGAN INCURRING SUBSTANTIAL LOSSES WHICH WERE MADE UP BY THE SHAREHOLDERS. A RESTRUCTURING TOOK PLACE IN WHICH SHEIK ZAYED BECAME A 77-PERCENT SHAREHOLDER, AND THE BANK'S PRINCIPAL OPERATIONS WERE CONSOLIDATED IN THREE LOCATIONS: LONDON, ABU DHABI, AND HONG KONG.

10. (LOU) THE RESTRUCTURING FINALLY GAVE BCCI A "POLITICAL HOME" (ABU DHABI), AND IN LATE 1989 THE LMI INSTRUCTED BCCI TO MOVE ITS HOLDING COMPANY OUT OF LUXEMBOURG AND TO REDUCE ITS PRESENCE IN LUXEMBOURG TO A BANK BRANCH -- ALL TO BE DONE WITHIN 12-18 MONTHS.

COULD ANOTHER BCCI ESTABLISH ITSELF IN LUXEMBOURG?

11. (LOU) LMI OFFICIALS SAY THAT A REPEAT OF BCCI COULD NOT OCCUR UNDER PRESENT LUXEMBOURG BANKING LEGISLATION. ACCORDING TO LEGISLATIVE CHANGES ENACTED IN 1982 AND 1984, BANKS STRUCTURED LIKE BCCI, WITH ONLY A TITULAR HEADQUARTERS IN LUXEMBOURG AND MOST OF ITS OPERATIONS ELSEWHERE, WOULD NOT BE LICENSED. TODAY, MINIMUM REQUIREMENTS FOR OBTAINING A LICENSE INCLUDE:

- DEMONSTRATED ABILITY TO RUN A BANK (A RICH OWNER MAY NOT RELY SOLELY ON HIRED TALENT);
- 250 MILLION LUXEMBOURG FRANCS IN CAPITAL (APPROXIMATELY US DOLS 7 MILLION);
- ACCESS TO SUFFICIENT CREDIT FROM AT LEAST 15-20 ESTABLISHED FINANCIAL INSTITUTIONS (BANKERS' EQUIVALENT OF "GOOD HOUSEKEEPING SE. OF APPROVAL"); AND
- CONSENT OF THE BANK'S HOME-COUNTRY SUPERVISORY ORGANIZATION.

12. (U) THE NEW LEGISLATION ALSO ALLOWS BANK REGULATORS TO:

- SUSPEND MEMBERS OF THE BOARD, IF THEY ARE FOUND TO BE UNSAVORY;

/***** BEGINNING OF SECTION 003 *****/

- IMPOSE SANCTIONS; AND
- TAKE OVER MANAGEMENT OF OR LIQUIDATE THE BANK.

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13. (U) THE LMI ALSO CITES STRINGENT NEW LAWS AND REGULATIONS IMPLEMENTED IN 1990 THAT HOLD BANKERS PERSONALLY AND CRIMINALLY LIABLE IF THEY ACCEPT DEPOSITS DERIVED FROM MONEY LAUNDERING OR OTHER CRIMINAL ACTIVITIES OR WHOSE ULTIMATE BENEFICIAL OWNERS HAVE ENGAGED IN SUCH ACTS.

14. (C) NOTE: AS IS CUSTOMARY IN MUCH OF EUROPE, TAX EVASION DOES NOT COUNT AS A CRIMINAL ACTIVITY. END NOTE.

15. (U) LUXEMBOURG AUTHORITIES CITE THE CASE OF A FRENCH BANKER WHO ESTABLISHED HIS HEADQUARTERS IN LUXEMBOURG AND THEN SET UP EXTENSIVE OPERATIONS IN PARIS AND HONG KONG. THE LMI ADVISED THE BANK THAT IN VIEW OF ITS EXTENSIVE OPERATIONS OUTSIDE LUXEMBOURG, IT SHOULD MOVE ITS HEADQUARTERS. THE BANK IN FACT MOVED ITS HEADQUARTERS TO PARIS, AND THE LUXEMBOURG OFFICE BECAME A BRANCH.

16. (LOU) ALTHOUGH THE LUXEMBOURGERS BELIEVE THAT THE BASEL CONCORDAT AND TODAY'S CLOSER COOPERATION AMONG CENTRAL BANK REGULATORS WORKS REASONABLY WELL IN SUPERVISING BANKS, THEY ARE NOT CONVINCED THAT THE PRESENT LAWS AND REGULATIONS ARE ADEQUATE FOR OVERSEEING BANK HOLDING COMPANIES. THEY BELIEVE THAT SOME SET OF RULES TO COVER HOLDING COMPANIES WILL BE ESTABLISHED EITHER IN THE CONTEXT OF THE BASEL CONCORDAT OR THE EC. THEY ARE SKEPTICAL, HOWEVER, ABOUT THE MECHANICS OF IMPLEMENTING ANY SUCH SET OF RULES.
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